

European Scrutiny Committee

House of Commons London SW1A 0AA

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From: Sir William Cash MP

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UK application to accede to the 2007 Lugano Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (the Convention)

The Committee has asked me to write to seek clarity on the state of play concerning the UK's application to accede to the Lugano Convention. This requires the unanimous approval of the contracting parties, namely EFTA countries and the EU. Press reports last week have spurred renewed speculation over whether the EU will support or oppose the UK's application.¹

As you know, the Convention provides legal certainty on which country's courts may hear a civil or commercial cross-border dispute. It also ensures that any subsequent judgment can be recognised and enforced across the borders of the contracting parties. It is therefore important for businesses who need to enforce relevant contractual rights and obligations. But it is also helpful for individuals, who need to have confidence that they can enforce their rights as consumers and under family maintenance arrangements.

Logically, these benefits would be increased for the businesses and citizens of existing EU/EFTA contracting parties with the accession of a new contracting party to the Convention, such as the UK. Predictable and efficient enforcement of contractual rights would also help to facilitate trade under relevant trade deals between the contracting parties and the UK.

The Convention is a familiar and valuable tool for the UK's legal services sector and courts. But this is not only something which only benefits the UK as

¹ See the Financial Times, 'UK set to secure Brussels' backing for joining legal pact' and 13 April "Brussels opposes UK bid to join legal pact, splitting EU states' (12 April 2021)

businesses and individuals in other countries may wish to have the choice to continue to trust UK courts and jurisdictions to enforce their rights.

We therefore regard the EU approach to UK accession to the Convention as a matter of considerable political and legal importance, warranting our scrutiny.

Over a year has elapsed since the UK first applied to accede to the Convention. During that time, Iceland, Switzerland, and Norway have all supported the UK's application. But the EU is still in the process of finalising its position. However, the EU delegation said last week in response to a query:

It may be worth mentioning that the Lugano Convention is a tool used within the EU-EFTA/EEA context. The UK has chosen to leave the EU, the Single Market and the Customs Union and has preferred to have a more distant relationship with the EU than EEA-EFTA countries.²

This would suggest that the EU is currently minded to oppose UK accession. Do you agree with us that neither EU nor EFTA membership is a pre-condition for a country to join the Convention?

In terms of next steps, the EU delegation to the UK said last week:

The Commission has conducted a thorough assessment of the request of the UK's application to join the Lugano Convention and has discussed it with Member States. It will come forward with a Communication in the coming weeks.³

Does the Government have any further information about the timing of the Communication? What is the Government doing to engage with the Commission at this crucial stage?

Once the Commission's Communication is published, we would be grateful for a prompt view from Government on the document. Should the EU's internal process advance further, we would value further input from Government on any other related EU documents put to the EU Council of Ministers. Clarification regarding any onwards process would be welcomed.

I am copying this letter to Sir Robert Neill and David Weir, Chair and Clerk of the Justice Committee; Lord Kinnoull and Simon Pook; Chair and Clerk of the Lords European Affairs Committee and Tim Mitchell as Legal Adviser to that

² [Tweet](#) from the EU Delegation UK (13 April 2021)

³ [Tweet](#) from the EU Delegation UK (14 April 2021)

Committee; Les Saunders at the Cabinet Office and Maxine Cristiano,
Departmental Scrutiny Coordinator.

CHAIR